

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
vs.)
)
RICHARD SCOTT McINTOSH,)
)
 Defendant.)

CASE NO. 99-CR-40044-JPG

NOTICE OF INTENT TO SEEK THE DEATH PENALTY

COMES Now the United States of America, pursuant to 18 U.S.C. § 3593(a), by and through its attorneys, W. Charles Grace, United States Attorney for the Southern District of Illinois, and James M. Cutchin, Assistant United States Attorney for said District, and notifies this Honorable Court and defendant RICHARD SCOTT McINTOSH (hereinafter “defendant”), that the United States believes the circumstances of the offense charged in Count One of the Second Superseding Indictment filed in this case, the First Degree Murder of Terry Lamar Walker in violation of 18 U.S.C. §§ 7(3) and 1111, are such that, in the event of the defendant’s conviction of this offense, a sentence of death is justified under Chapter 228 (Sections 3591 through 3598) of Title 18 of the United States Code, and that the United States will seek the sentence of death against this defendant for this offense.

The United States will seek to prove the following aggravating factors as the basis for imposition of the death penalty.

COUNT ONE

FIRST DEGREE MURDER OF TERRY LAMAR WALKER

A. Statutory Proportionality Factors Enumerated under 18 U.S.C. § 3591(a)(2)(A)-(D).

1. **Intentional Killing.** The defendant intentionally killed Terry Lamar Walker.

Section 3591(a)(2)(A).

2. **Intentional Infliction of Serious Bodily Injury.** The defendant intentionally inflicted serious bodily injury that resulted in the death of Terry Lamar Walker. Section 3591(a)(2)(B).

3. **Intentional Acts to Take Life or Use Lethal Force.** The defendant intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and Terry Lamar Walker died as a direct result of the act. Section 3591(a)(2)(C).

B. Statutory Aggravating Factors Enumerated under 18 U.S.C. § 3592(c).

1. **Previous Conviction of Violent Felony Involving Firearm.** The defendant has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than one year, involving the use or attempted or threatened use of a firearm (as defined in 18 U.S.C. 921) against another person, including, but not necessarily limited to, one or more of the following:

A. Defendant was convicted on or about January 28, 1992, in the United States District Court for the Eastern District of Oklahoma, Case No.

91-051-S, of, among other offenses, one count of bank robbery and one count of using a firearm during and in relation to a crime of violence.

B. Defendant was convicted on or about April 9, 1992, in the District Court in and for Muskogee County, State of Oklahoma, Case No. 91-456, of, among other offenses, one count of robbery with firearms, three counts of shooting with intent to kill, and one count of assault with a dangerous weapon.

See Section 3592(c)(2).

2. **Heinous, Cruel, or Depraved Manner of Committing Offense.** The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim. Section 3592(c)(6).

3. **Substantial Planning and Premeditation.** The defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism. Section 3592(c)(9).

C. Other, Non-Statutory, Aggravating Factors Identified under 18 U.S.C. § 3593(a)(2).

1. **Future Dangerousness of the Defendant.** The defendant is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to the lives and safety of others. Simmons v. South Carolina, 114 S. Ct. 2187, 2193 (1994). In addition to the capital offense charged in the Second Superseding Indictment and the statutory and other non-statutory aggravating factors alleged in this Notice, the defendant: 1) is a close associate or member

of race-based organizations and gangs including the Aryan Brotherhood, a gang originating in the California state prison system which now also exists and operates in the federal prison system and advocates and commands its members and associates to engage in, among other criminal activity, the assault and murder of fellow inmates, including inmates which belong to certain identifiable groups; 2) has engaged in a continuing pattern of violent conduct; 3) has threatened others with violence; 4) has demonstrated low rehabilitative potential, and 5) has committed this and other offenses and violent acts while designated as a high security custody inmate in various correctional facilities, all of which is described in the items of discovery provided or made available to defendant.

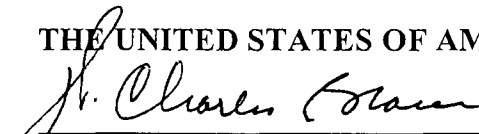
2. **Commission of Offense for Reward.** The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of reward, to wit: membership or increased stature in a nationwide prison gang.

3. **Racial Hatred as a Motive for the Murder.** The defendant selected the victim and committed the offense against the victim because of the victim's race, color, or national origin, in whole or in part. See U.S.S.G. 3A1.1(a).

Respectfully submitted,

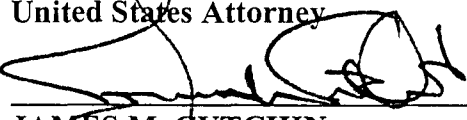
THE UNITED STATES OF AMERICA

By:



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United States Attorney

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that he/she is an employee in the Office of the United States Attorney for the Southern District of Illinois and is a person of such age and discretion as to be competent to serve papers and that on October 31, 2001, he/she served a copy of the attached

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by placing said copy in a postage prepaid envelope addressed to the person(s) hereinafter named at the place(s) and address(es) stated below, which is/are the last known address(es), and by depositing said envelope and contents in the United States mail.

Addressee(s):

Mr. John J. O’Gara, Jr.
Attorney at Law
6 East Washington Street
Belleville, Illinois 62220



OFFICE OF THE UNITED STATES ATTORNEY